

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

PHILLIP HUDDY,
Plaintiff,

vs.

USAA SAVINGS BANK,
Defendant.

Case No. 1:18-cv-470
Dlott, J.
Litkovitz, M.J.

ORDER

Plaintiff brings this civil action against defendant for violations of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et. seq.* This matter is before the Court on plaintiff’s motion to file an amended complaint (Doc. 11). This matter is also before the Court on Bankruptcy Trustee Mark Greenberger’s motion to be substituted as a plaintiff in this case for the Chapter 7 estate of Phillip Huddy and motion for continuation of proceedings. (Doc. 20). Defendant has not filed a response in opposition to either motion.

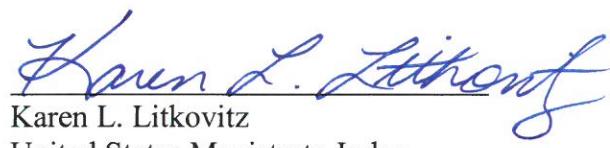
On December 6, 2018, Mark Greenberger, Trustee of the Chapter 7 estate of Phillip Huddy, filed a motion to be substituted as the plaintiff in this case. (Doc. 20). Attached to his motion, Greenberger includes an order of employment of the undersigned attorney, Carlos C. Alsina, Esq., to represent Trustee Greenberger on behalf of the Chapter 7 estate of Phillip Huddy in these proceedings. (Doc. 20-1). Accordingly, the Court takes notice of Trustee Greenberger’s substitution and **GRANTS** his motion for a continuation of proceedings. *See Bauer v. Commerce Union Bank, Clarksville, Tenn.*, 859 F.2d 438, 441 (6th Cir. 1988) (“It is well settled that the right to pursue causes of action formerly belonging to the debtor—a form of property ‘under the Bankruptcy Code’—vests in the trustee for the benefit of the estate. . . . The debtor has no standing to pursue such causes of action.”) (internal quotations and citations omitted).

The Clerk is **DIRECTED** to amend the case caption in this case and substitute Trustee Greenberger as plaintiff.

Before Trustee Greenberger filed his motion for substitution as the plaintiff in this case, plaintiff Huddy filed a motion to amend his complaint on August 31, 2018. (Doc. 11). Plaintiff Huddy sought to amend his complaint to correct a clerical error concerning his telephone number listed in paragraph 10 of the complaint. (Doc. 11 at 1). Even in light of Trustee Greenberger's substitution, the Court does not deem the motion to amend as moot. Accordingly, for good cause shown, the motion to amend is **GRANTED**. The Clerk is **DIRECTED** to file the amended complaint on the docket of this Court.

IT IS SO ORDERED.

Date: 2/25/19


Karen L. Litkovitz
United States Magistrate Judge